

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SHEDERICK D. SMITH,)	
)	
Petitioner,)	
)	
v.)	
)	
LORIE DAVIS, <i>Director TDCJ</i> ,)	
)	
Respondent.)	Civil Action No. 3:20-CV-668-C-BN

ORDER

Before the Court are the Findings, Conclusions, and Recommendation of the United States Magistrate Judge therein advising that the Court should dismiss Petitioner's habeas application with prejudice as time-barred under Rule 4 of the Rules governing Section 2254 cases.¹

The Court conducts a *de novo* review of those portions of the Magistrate Judge's report or specified proposed findings or recommendations to which a timely objection is made. 28 U.S.C. § 636(b)(1)(C). Portions of the report or proposed findings or recommendations that are not the subject of a timely objection will be accepted by the Court unless they are clearly erroneous or contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

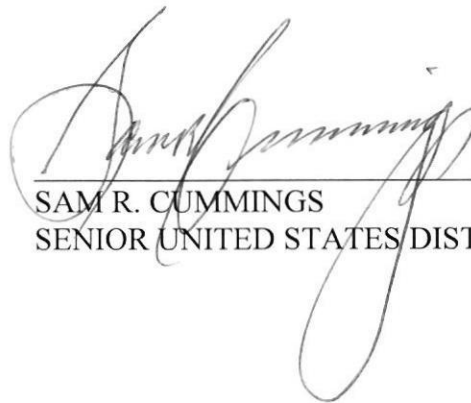
After due consideration and having conducted a *de novo* review, the Court finds that Petitioner's objections should be **OVERRULED**. The Court has further conducted an independent review of the Magistrate Judge's findings and conclusions and finds no error. It is

¹ Petitioner filed objections to the Magistrate Judge's Findings, Conclusions, and Recommendation on May 5, 2020, as well as on May 11, 2020. *See* Docs. 12 & 14.

therefore **ORDERED** that the Findings, Conclusions, and Recommendation are hereby **ADOPTED** as the findings and conclusions of the Court. For the reasons stated therein, Petitioner's application for writ of habeas corpus under 28 U.S.C. § 2254 is hereby **DISMISSED** with prejudice as time-barred.

Pursuant to Rule 22 of the Federal Rules of Appellate Procedure and 28 U.S.C. § 2253(c), this Court finds that a certificate of appealability is **DENIED**. The Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions, and Recommendation in support of its finding that Petitioner has failed to show that a reasonable jurist would find: (1) this Court's "assessment of the constitutional claims debatable or wrong," or (2) "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

SO ORDERED this 29th day of May, 2020.



SAM R. CUMMINGS
SENIOR UNITED STATES DISTRICT JUDGE